UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,544	06/29/2000	Colin S. Cole	3797.86783	8016

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Office Action Summary	Application No.	Applicant(s)
	09/605,544	COLE ET AL.
	Examiner	Art Unit
	Aaron Strange	2153

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>31 October 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,5-8,25 and 27-37</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,5-8,25 and 27-37</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   In the remarks filed 10/31/2007, Applicant asserts that claims 1, 5-8, 25 and 27-

40 are pending (Remarks, 7). However, claims 38-40 do not appear in the claims

submitted with the response filed 10/31/07, and they were also omitted from the claims

submitted with the supplemental amendment filed 6/20/07, although neither response

indicates that the claims have been cancelled. The last submission containing claims

38-40 was filed 5/7/07, and the claims contained substantially identical limitations to

claims 28, 29 and 32.

While the status of claims 38-40 is unclear, if Applicant intends for these claims

to remain pending, they should be considered to be rejected under the same rationale

as that set forth for claims 28, 29 and 32, and any response should be prepared

accordingly.

Response to Arguments

2.   Applicant's arguments with respect to all pending claims have been considered

but are moot in view of the new ground(s) of rejection.

3.   Upon further consideration, the indicated allowability of claims 1, 5-8, 25 and 33-

36 is withdrawn in view of the newly discovered reference(s) to Hemphill et al. (US

6,167,448). Rejections based on the newly cited reference(s) follow.

The Examiner appreciates the inconvenience that such action may cause

Applicant, and apologizes on behalf of the Office. In the interest of expedited

prosecution, the Examiner invites Applicant to contact the Examiner to schedule an interview to discuss the present application, since an interview is likely to expedite the identification of allowable subject matter and/or issues for appeal.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claims 25, 32 and 36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

6.   With regard to claims 25, 32 and 36, the limitation "wherin the [first] software envelope contains the plugin" is not supported by the specification. The specification states only "In one embodiment of the invention, a plugin or parser may be attached to the software envelope". A software envelope "containing" a plugin is different from and is not supported by "attaching" a plugin to a software envelope. It is additionally noted that independent claims 1, 27 and 33 contain limitations directed to "attaching" the plugin to the software envelope.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8.   Claims 1, 5, 6, 8, 25 and 33-36 are rejected under 35 U.S.C. 102(e) as being

anticipated by Hemphill et al. (US 6,167,448)

9.   With regard to claim 1, Hemphill discloses a method for exchanging data

between a source location and a destination location comprising the steps of:

generating a data file (ENM document 303) (col. 10, ll. 23-48) formatted in a

markup language (XML) in accordance with a predetermined schema (DTD)(col. 8, l. 66

to col. 9, l. 25);

generating a first software envelope containing the data file (XML document

containing the ENM document)(col. 10, ll. 23-48);

selecting a plugin (EAS) from a plurality of plugins based on the predetermined

schema (there are multiple EAS files for different actions)(col. 10, l. 63 to col. 11, l. 6),

said plugin configured to create an object from the markup language of the data file

(scripts define actions, including object creation [var eventdoc = new object(xml)])(col. 11, ll. 11-28; col. 13, ll. 39-47);

attaching the plugin to the software envelope (EAS may be embedded in ENM, along with the ENM document)(col. 12, ll. 31-32);

transmitting the software envelope to the destination location (ENM is sent to management station)(col. 10, ll. 23-25); and

creating the object from the markup language of the data file with the plugin (col. 11, ll. 11-28; col. 13, ll. 39-47),

wherein the step of creating the object from the markup language of the data file with the plugin comprises

parsing the data file into a plurality of data fields according to the predetermined schema of the plugin (data fields are parsed by the event processor)(col. 13, ll. 39-41),

determining a first data field in the plurality as an optional data field based on the predetermined schema, and

determining a second data field in the plurality as a required data field based on the predetermined schema (parsed fields may be optional or required, and optional fields may be null)(col. 10, ll. 59-62).

10.   With regard to claim 5, Hemphill further discloses that the markup language comprises extensible markup language (XML) (col. 8, ll. 66 to col. 9, l. 2).

11.   With regard to claim 6, Hemphill further discloses that the markup language

comprises standard generalized markup language (SGML) (XML is a dialect of

SGML)(col. 8, II. 66 to col. 9, I. 2).

12.   With regard to claim 8, Hemphill further discloses that the step of transmitting the

software envelope comprises transmitting the software envelope via HTTP (col. 14, II.

44-45).

13.   With regard to claim 25, Hemphill further discloses that the software envelope

contains the plugin (EAS may be embedded into the ENM)(col. 12, II. 31-32).

14.   Claims 33-36 are rejected under the same rationale as claims 1, 5, 6 and 25,

since they recite substantially identical subject matter. Any differences between the

claims do not result in patentably distinct claims and all of the limitations are taught by

the above cited art.

Claim Rejections - 35 USC § 103

15.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

16.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hemphill

et al. (US 6,167,448) in view of Official Notice.

17.   With regard to claim 7, while the system disclosed by Hemphill shows substantial

features of the claimed invention (discussed above), it fails to disclose that the software

envelope is transmitted via electronic mail. However, Hemphill does disclose that the

envelope may be transmitted "according to any particular protocol that is supported by

the network architecture" (col. 14, ll. 42-44).

        The Examiner takes Official Notice that sending messages via electronic mail

was old and well known in the art at the time the invention was made. One of ordinary

skill in the art, at Hemphill's suggestion, would have looked for alternative protocols for

message delivery, and would have been aware of electronic mail. Delivery of electronic

mail would have been an advantageous delivery mechanism for the ENMs, since it

would have allowed the messages to be easily delivered to people such as system

administrators in addition to the management server.

        Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to deliver the ENMs using electronic mail.

18.   Claims 27-29, 31, 32 and 37 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Hemphill et al. (US 6,167,448) in view of Hughes (US 6,122,372)

further in view of Bowman-Amuah (US 6,434,568).

19.   With regard to claim 27, Hemphill discloses a method for exchanging data between a source location and a destination location comprising the steps of:

generating a data file (ENM document 303) (col. 10, II. 23-48) formatted in a markup language (XML) in accordance with a predetermined schema (DTD)(col. 8, I. 66 to col. 9, I. 25);

generating a first software envelope formatted in a markup language and containing the data file (XML document containing the ENM document)(col. 10, II. 23-48), the first software envelope containing fields for return routing information (<IPADDRESS> field indicating the address of the ENM sender)(col. 9, II. 49-50; col. 10, II. 28-48);

selecting a plugin (EAS) based on the predetermined schema (there are multiple EAS files for different actions)(col. 10, I. 63 to col. 11, I. 6), said plugin configured to create an object from the markup language of the data file (scripts define actions, including object creation [var eventdoc = new object(xml)])(col. 11, II. 11-28; col. 13, II. 39-47);

attaching the plugin to the first software envelope (EAS may be embedded in ENM, along with the ENM document)(col. 12, II. 31-32);

transmitting the first software envelope to the destination location (ENM is sent to management station)(col. 10, II. 23-25); and

wherein the plugin includes executable code (scripting code)(col. 11, II. 2-6) to provide to the application the functionality of creating the object from the markup language of the data file (col. 11, II. 11-28; col. 13, II. 39-47).

Hemphill further discloses including forward routing information in the HTTP

header for the ENM message ("Host: ManagementServer.domain.com")(col. 10, ll. 28-

48) and discloses that the DTD for the messages may be "defined in any manner

depending upon the particular implementation" (col. 9, ll. 26-28), but fails to disclose

including the forward routing information in the software envelope (XML document) or

determining an operating system associated with the destination before selecting the

plugin based on the operating system.

Hughes discloses a similar system for transmitting information using markup

language documents (col. 8, ll. 35-39). Hughes teaches including both forward

(recipient) and return (sender) routing information in a single message (fig. 2; col. 10, l.

60 to col. 11, l. 14). Including both the forward and return routing information in the

software envelope would have been a predictable variation of the message format used

by Hemphill, especially in light of Hemphill's teaching that the message can be defined

"in any manner".

Bowman-Amuah teaches that plug-ins are known to be operating system-

dependent, and that separate versions of a plug-in may be required to allow different

operating systems to view a particular unique data type (col. 44, ll. 26-45). Hemphill also

discloses that the plug-ins may be encoded using various languages. One of ordinary

skill in the art, made aware that plug-ins are operating system dependent, would have

determined the operating system associated with the destination and selected the

appropriate plug-in to ensure that the recipient could execute the plugin and create the

.required objects.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include forward and return routing information in the software envelope and select an appropriate operating-system specific plug-in to ensure that the recipient may properly create the required objects.

20.   With regard to claim 28, Hemphill further discloses that the markup language comprises extensible markup language (XML) (col. 8, II. 66 to col. 9, I. 2).

21.   With regard to claim 29, Hemphill further discloses that the markup language comprises standard generalized markup language (SGML) (XML is a dialect of SGML)(col. 8, II. 66 to col. 9, I. 2).

22.   With regard to claim 31, Hemphill further discloses that the step of transmitting the software envelope comprises transmitting the software envelope via HTTP (col. 14, II. 44-45).

23.   With regard to claim 32, Hemphill further discloses that the software envelope contains the plugin (EAS may be embedded into the ENM)(col. 12, II. 31-32).

24.   Claims 37 is rejected under the same rationale as claim 27, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

25.   Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hemphill

et al. (US 6,167,448) in view of Hughes (US 6,122,372) further in view of Bowman-

Amuah (US 6,434,568) further in view of Official Notice.

26.   With regard to claim 30, while the system disclosed by Hemphill, Hughes and

BGowman-Amuah shows substantial features of the claimed invention (discussed

above), it fails to disclose that the software envelope is transmitted via electronic mail.

However, Hemphill does disclose that the envelope may be transmitted "according to

any particular protocol that is supported by the network architecture" (col. 14, ll. 42-44).

The Examiner takes Official Notice that sending messages via electronic mail

was old and well known in the art at the time the invention was made. One of ordinary

skill in the art, at Hemphill's suggestion, would have looked for alternative protocols for

message delivery, and would have been aware of electronic mail. Delivery of electronic

mail would have been an advantageous delivery mechanism for the ENMs, since it

would have allowed the messages to be easily delivered to people such as system

administrators in addition to the management server.

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to deliver the ENMs using electronic mail.

Conclusion

27.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS
2/7/08

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